taking into account a rather remote building potential and any severance loss (in its building potential value) which might arise as a result of the acquisition, to the remaining land.

I would therefore award compensation as follows:—

Under para 2(a) of the First Schedule to the Act, taking into account the price of the acquired land as good rubber and adding to that an element for building potential - - - - -	$4,500 per acre
Severance loss - - - - - - - -	$ 500 per acre
Total amount of award - - - -	$5,500 per acre

I should add that if the assessors and I erred at all, our valuation would err on the generous side. We have not deducted any sum under sub-paragraph (b) of paragraph 2 of the First Schedule, even though there must be some increase in the value of the remaining land, by reason of the fact that a school and ancillary buildings are to be constructed on the site acquired.

Under section 41(3) I order that each asessor shall be paid a fee of $300 for the three days for the hearing of this reference. In view of the fact that the amount of the court award does not exceed the sum awarded by the collector, I order under section 51(1)(a) that the costs shall be paid by the applicants.

Order accordingly.

G.K. Karthiravelu and **C.J. Sergeant, Assessors,** concurred.

Solicitors: *Joseph & Son.*

SUN HING & CO. v. SUN CHEONG TIN MINES

[R.C.J. (Sharma J.) April 20, 1972]

[Ipoh — Civil Revision No. 1 of 1972]

Sale of Goods — Claim for goods sold and delivered — Interest — Claim for — No reasons given.

Practice and Procedure — Cause of action — Accrual of — Subordinate Courts Rules, 1950, O. 19 r. 10 — Civil Law Ordinance, 1956, s. 11.

The plaintiff filed an action in the sessions court claiming $7,232,64 for goods sold and delivered to the defendant. No defence was filed and the defendant did not appear at the hearing on February 25, 1972. Judgment was entered for the plaintiff as prayed.

The plaintiff claimed and was awarded interest at the rate of 6% *per annum* from August 22, 1970, to the date of payment of the judgment debt. However, the statement of claim did not state why interest was claimed from August 22, 1970, or as to when the cause of action arose.

Held: the order of the learned president was to be varied in so far as payment of interest was concerned. Since the action was filed on January 22, 1972, the plaintiff was consequently entitled to interest at the rate of 6% *per annum* from January 22, 1972 and not from August 22, 1970.

REVISION.

Lim Boon Seng for the plaintiff.

The defendant, by its managing partner, Leong Siew Cheong.

Sharma J. (delivering oral judgment): The plaintiff filed an action in the sessions court claiming tne sum of $7,232.64 for goods sold and delivered to the defendant. The defendant did not file any defence nor did it appear when the suit came up for hearing on 25th February, 1972. The learned president thereupon gave judgment for the plaintiff as prayed in the statement of claim. The plaintiff had claimed interest at the rate of 6 *per cent per annum* from 22nd August, 1970 to the date of payment of the judgment debt. There is not a word in the statement of claim as to why interest was claimed from 22nd August, 1970 or as to when the cause of action arose.

The defendant although it did not appear wrote a letter to the court that the plaintiff was not entitled to interest at 6 *per cent per annum* from 22nd August, 1970 but from the date of judgment. This letter, whatever its worth, does not seem to have been taken into consideration by the learned president. I am not saying that the learned president should have given any thought to it when the defendant did not raise any issue on the question of payment of interest and had failed to file any defence. It was, however, the duty of the learned president to consider the provisions of Order 19, rule 10 of the Subordinate Courts Rules which deals with the question of interest and authorises interest not exceeding 6 *per cent per annum* from the date of filing of the action to the date of judgment. Section 11 of the Civil Law Ordinance no doubt does authorise the court to award interest from the date of the cause of action but in this particular case the statement of claim does not disclose when the cause of action arose nor does there appear anything on the record to show the date of the accrual of the cause of action.

In the circumstances the order of the learned president is varied in so far as payment of interest by the defendant is concerned. The action was filed on 22nd January, 1972. The plaintiff is consequently entitled to interest at the rate of 6 *per cent per annum* from 22nd January, 1972 and not from 22nd August, 1970.

Order accordingly.

Solicitor: *Lim Boon Seng.*